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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,589	01/27/2004	Takaaki Shimada	2038-323	8968
22429	7590	09/06/2005	EXAMINER	
LOWE HAUPTMAN GILMAN AND BERNER, LLP			EVANS, CHIVONNE LAURIE	
1700 DIAGONAL ROAD			ART UNIT	PAPER NUMBER
SUITE 300 /310			3761	
ALEXANDRIA, VA 22314			DATE MAILED: 09/06/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/764,589	SHIMADA ET AL.	
	<b>Examiner</b> Chivonne L. Evans	<b>Art Unit</b> 3761	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 27 January 2004.  
2a)  This action is **FINAL**.                    2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-7 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 27 January 2004 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

**DETAILED ACTION**

***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because it exceeds 150 words and "the" is used to introduce parts of the article such as "the second elastic members."

Applicant is reminded that the abstract is to be narrative. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 6-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Yamamoto et al. (EP 0761193). With regards to claims 1-4 and 7,

Yamamoto teaches an absorbent article of pants type that comprising a laminated panel with liquid permeable topsheet, liquid impermeable bottom sheet with a core panel disposed in between as well as front waist, rear waist and crotch regions (**Column 2, lines 21 –31 and Figure 1**). Yamamoto also teaches that there are first (around waist region), second (around the leg openings) and third (crosses upper end of core panel in the crotch region and the second elastic means) elastic means. (**Column 2, lines 31 – 48 and Figure 1, 2, and 3**), whereas the elastic means are bonded between the top and backsheet (**Column 5, lines 55-58 and Column 6, lines 42-48**). With regards to claim 6 of the application, the elastic means taught by Yamamoto also have a free portion that extend along the side panels of the front **17** and rear waist **18** region and a fixed portion which are welded together which at side edges **20a** and **20b** of **Figure 1**.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Yamamoto et al. (EP 0761193)** in view of **Yamamoto et al. (EP 0761194)**. Yamamoto et al. (EP 0761193) teaches the invention substantially as claimed except for the third inner layer which the leg surrounding elastics are separated from the second and third elastic means as claimed by the applicant. **Yamamoto et al. (EP 0761194)** teaches a

crotch region structure with a crotch section topsheet and crotch section bottom sheet in which the leg elastics (**Figure 3,15**) are disposed between and an outer sheet and a back sheet in which the waist elastic members **13** and **14** of **Figure 1** are disposed between, (**Column 4, 10-55**) to allow separate stretching means around the leg and waist openings. It would have been obvious to one skilled in the art at the time of the invention to modify **Yamamoto et al. (EP 0761193)** with an additional sheet layer to provide individual stretching capability of the leg and waist openings according to the movement of the wearer of the article, as taught by **Yamamoto et al. (EP 0761194)**.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shinohara (6923797) and Watanabe (5415649) are all relevant to this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chivonne L. Evans whose telephone number is 571-272-8686. The examiner can normally be reached on between 6:30-3:30, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Chivonne L Evans  
Examiner  
Art Unit 3761

TATYANA ZALUKAEVA  
PRIMARY EXAMINER

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